
in the
Supreme Court
of the
United States

OCTOBER TERM 1976

CASE NO. 76-1440

ALEX GOLDSTEIN,

Petitioner,

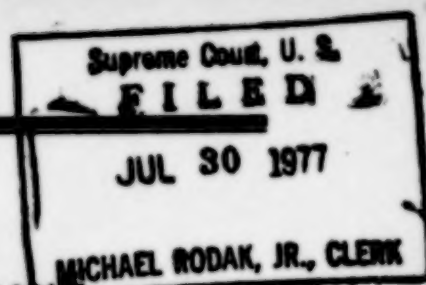
vs.

UNITED STATES OF AMERICA,

Respondent.

SECOND SUPPLEMENTAL APPENDIX

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APPENDIX L

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counsel with Trial Court and defense relating
to probable dismissal of indictment against
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**United States District Court
Southern District of Florida**

CASE NO. 74-69-CR-CF

UNITED STATES OF AMERICA,

vs.

**LEONARD NIKOLORIC, MILES DEARDEN, JR.,
MILES DEARDEN, SR., MERTON HAMILTON,
and ALEX GOLDSTIN,**

Defendants.

**PARTIAL TRANSCRIPT OF PROCEEDINGS
HAD BEFORE THE COURT**

U.S. Attorney: JEROME ULLMAN, ESQ.

Defendants' Attorneys: BARRY GARBER, ESQ.
(For Deft. Nikoloric
and Hamilton)

DAN PEARSON, ESQ.
(For Deft. Miles
Dearden, Sr.)

IRWIN BLOCK, ESQ.
(For Deft. Miles
Dearden, Jr.)

RONALD STRAUSS, ESQ.
(For Deft. Goldstein)

Also Present: MARK RICHARD and
ROGER FORTUNA
(Department of Justice)

NICK BUONICONTE, ESQ.

Monday, May 19, 1975
U.S. District Courthouse
West Palm Beach, Florida

PROCEEDINGS

* * *

MR. STRAUSS: Your Honor, in this regard, there are two defendants listed on the indictment, the Wreble [sic] brothers, who have not been extradited from Germany, and I wonder if the Court would comment as to its views pertaining to presentation of evidence revolving solely around the Wreble [sic] brothers and not as to the defendants since they are not here.

THE COURT: I don't know how you want me to comment. What do you want me to speak to?

MR. STRAUSS: Your Honor, it's my feeling that the Government will try to lump their evidence of proof against the [sic] Wreble brothers and make an indication that Goldstein was part of the German group, and there are things we cannot respond to solely within the province of the Wreble [sic] brothers.

When it comes to that point we are going to have some difficulty, I believe, in the objections of delaying the trial unless we get an overall view pertaining to the Court's opinion of absent defendants and how it should be directed.

THE COURT: It's not unusual that co-conspirators are not indicted, and the fact that they are absent is sort of a similar situation. And when you proceed with the trial with the burden of proof being upon the Government to prove beyond a reasonable doubt, first, that there was conspiracy and membership in it and these other things and if that kind of proof is made and these people are absent, they can't be made a subject of conviction or a sentence.

But they were members and other people were members and whatever they said or did will be part of the evidentiary portion of the case I would think.

I don't know how to rule any differently than that.

THE COURT: Do you need to retain these two defendants who were not served who are not before the Court?

MR. ULLMAN: We intend to offer some evidence about them and they need to be referred to as co-conspirators. We don't think that we're going to be able to extradite them.

THE COURT: Are they Germans?

MR. ULLMAN: Yes. At some point I would anticipate that we would probably just dismiss the indictment against them because they would not be extraditable, and we anticipate that they may well be indicted in Germany with further causes.

* * *

THE STATE OF FLORIDA,)
COUNTY OF PALM BEACH,)

I, Peggy Goodendorf, Court Reporter, do hereby certify that I was authorized to and did report the above hearing at the time and place herein stated and that this is a true and correct partial transcription of my stenotype notes taken at said hearing.

In witness whereof, I have hereunto set my hand this 5th day of July, 1977.

PEGGY GOODENDORF
Court Reporter

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the within Second Supplemental Appendix to the United States Supreme Court was mailed this 29th day of July, 1977 to the office of the Solicitor General, Department of Justice, Room 5614, Washington, D.C., 20530.

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